

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**
Electronically Filed

DR. KEITH F. BELL)	
)	
Plaintiff,)	
Counterclaim Defendant, Pro Se)	
)	Case No. 23-cv-3008- JMB-JFD
vs.)	
)	
SHOW-RITE FEEDS)	
)	
Defendant)	
Counterclaim Plaintiff)	

MOTION FOR ENTRY OF PROPOSED ESI PROTOCOL

Defendant/Counterclaim Plaintiff Ridley USA Inc. d/b/a Show-Rite (“Ridley”), by counsel, moves this Court to order that the proposed ESI Protocol attached hereto as **Exhibit A** be entered in the electronic case file of these proceedings. In support of its motion, Ridley asserts the following facts.

1. This Court entered a Pretrial Scheduling Order on December 20, 2023, ECF 20 (the “Scheduling Order”), in which the Court ordered the parties to meet and confer regarding a formal protocol for discovery of electronically stored informaiton (“ESI Protocol”) by February 1, 2024, and to submit to the Court any disputes regarding an electronic discovery plan and the ESI Protocol by February 14, 2024. *See* Scheduling Order, ECF 20 p. 2.

2. Pursuant to the Scheduling Order, counsel for Ridley communicated with Plaintiff/Counterclaim Defendant Keith F. Bell (“Dr. Bell”) via email dated January 26, 2024, at 4:36 PM Eastern Time to schedule a meet-and-confer regarding the ESI Protocol. A copy of this correspondence is attached as **Exhibit B**.

3. Despite efforts by counsel for Ridley to schedule the meet-and-confer by February 1, 2024, the parties were unable to arrange a time prior to said date, and instead

met via Teams to discuss the ESI Protocol on February 2, 2024, at 3:00 PM Eastern Time. A copy of this correspondence in which this meeting was discussed and scheduled is attached as **Exhibit C**.

4. Following the parties' meeting as set forth in paragraph 3 above, counsel for Ridley prepared a proposed ESI Protocol and sent it to Dr. Bell via email on February 13, 2024, at 4:15 PM Eastern Time. On that same day, at 6:01 PM Eastern Time, Dr. Bell responded via email, "As best as I can understand it, I think I am okay with it." Since this response, counsel for Ridley has received no further correspondence from Dr. Bell. At 6:03 PM Eastern Time, counsel for Ridley asked Dr. Bell to sign the ESI Protocol and indicated that Ridley would file it with the Court. Dr. Bell did not respond. On February 14, 2024, at 1:51 PM, counsel for Ridley again emailed Dr. Bell asking if he would be signing the ESI Protocol today so it could be submitted to the Court in compliance with the Scheduling Order. Dr. Bell did not respond. A copy of the above correspondence is attached as **Exhibit D**.

The above lack of communication from Dr. Bell has led counsel for Ridley to file the present motion out of respect for this Court's Scheduling Order, with the understanding that Dr. Bell has manifested at least an agreement in principle to the proposed ESI Protocol. For the reasons set forth herein, Ridley respectfully moves this Court to enter the attached ESI Protocol in the electronic case file of these proceedings. Counsel will make arrangements for a hearing with the Court's staff forthwith.

MEET AND CONFER STATEMENT

In accordance with this Court's rules, counsel for Ridley made one final attempt to meet and confer via email with Dr. Bell regarding the ESI Protocol and the present Motion. A copy of this correspondence is attached as **Exhibit E**. As of the time of filing, counsel for Ridley has not received any further communication from Dr. Bell. Counsel for Ridley

submits that she has met her obligation to meet and confer with Dr. Bell before filing this Motion with the Court.

s/ Amy B. Berge

Amy B. Berge, *Admitted Pro Hac Vice*
Joseph R. Dages, *Admitted Pro Hac Vice*
Robert J. Theuerkauf, *Admitted Pro Hac Vice*
GRAY ICE HIGDON, PLLC
3939 Shelbyville Road, Suite 201
Louisville, Kentucky 40207
(502) 677-4729
aberge@grayice.com
jdages@grayice.com
rjt@grayice.com

Emily M. McAdam, Reg. No. 0400898
GREENE ESPEL PLLP
222 S. Ninth Street, Suite 2200
Minneapolis, MN 55402
emmccadam@greeneespel.com
(612) 373-0830
*Counsel for Defendant/
Counterclaim Plaintiff*

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing was filed on this the 14th day of February, 2024, according to the rules of Electronic Court Filing (ECF) in effect for the District of Minnesota, which ECF system will provide a copy of same to all persons registered to receive service in this case.

s/ Amy B. Berge

*Counsel for Defendant/
Counterclaim Plaintiff*